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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
0220-098

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on December 5, 2005

Signature /Steven M. duBois/

Typed or printed Name Steven M. duBois

Application Number	Filed
09/905,010	July 13, 2001

First Named Inventor
Thomas ANSCHUTZ et al.

Art Unit	Examiner
2143	Jude Jean Gilles

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 35,023.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____

/Steven M. duBois/
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Telephone number

December 5, 2005
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

Patent
Attorney's Docket No. 0220-098

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	**MAIL STOP AF**
Thomas ANSCHUTZ et al.	)	Group Art Unit: 2143
Application No: 09/905,010	)	Examiner: Jude Jean Gilles
Filed: July 13, 2001	)	
For: SYSTEM AND METHOD FOR PROVIDING NETWORK AND SERVICE ACCESS INDEPENDENT OF AN INTERNET SERVICE PROVIDER	)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

In response to the Advisory Action dated November 4, 2005, Applicants respectfully request review of the Examiner's rejections prior to Appeal for at least the following reasons. A Notice of Appeal is being filed concurrently herewith.

1. The Cited Portion Of Akhtar Does Not Teach Or Suggest Providing A Network Access Device With A First IP Address **AND** A Second IP Address

Claims 1-17, 19, 22-25 and 26 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Schmuelling et al. (U.S. Patent No. 6,603,758) in view of Akhtar et al. (U.S. Patent No. 6,769,000). In the Official Action, it is correctly recoginized that the Schmuelling patent does not teach or suggest providing a network access device with a first IP address for obtaining IP services available within the access provider network and with a second IP address for obtaining IP services available within the access provider network independent of the ISP. See Final Office

Action of June 27, 2005, page 4. Thus, the Official Action relies upon the Akhtar patent to allegedly remedy this deficiency. Specifically, the Final Office Action references column 21, lines 5-28, as allegedly teaching a permanent IP address that is associated with his/her home network and another IP address associated with another home network or an ISP. However, Applicants respectfully submit that this characterization of the teaching of Akhtar is incorrect for at least the following reasons.

The cited portion of Akhtar describes five different scenarios for allocating **an** IP address. Specifically, the first sentence in the cited portion of Akhtar accurately represents the teachings of this paragraph. "In accordance with the present invention, at least five IP address allocation scenarios may be used either to allocate **a** permanent IP address that is configured at or on the MN112, or to dynamically allocate **an** IP address by the IPM architecture" (emphasis added). See Akhtar, column 1, lines 5-9. As seen by this representative sentence, this portion of Akhtar describes a number of different scenarios for allocating **one** IP address in various ways to a particular device. Accordingly, Applicants strenuously disagree that the Examiner's characterization of this portion of Akhtar as providing an alleged teaching to supply a network access device with a first IP address and a second IP address as set forth, among other features, in Applicants' claim 1 combination.

Moreover, it is further noted that Akhtar also clearly does not teach or suggest providing a network access device with a first IP address "for obtaining IP services available within the access provider network" and a second IP address for "obtaining IP services available within the access provider network independent of the ISP," as set forth in Applicants' claim 1 combination.

Similar comments apply to independent claims 12, 15 and 22. The dependent claims rejected by the combination of Schmuelling and Akhtar are likewise allowable for at least those reasons provided with respect to the independent claims.

2. The Cited Portion Of Giniger Does Not Teach Or Suggest Adapting An Access Gateway And Ingress Element To Recognize And Redirect Data Based On The Presence Of Multiple Instances Of PPP Frames

Claims 20-21 and 25 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Akhtar in view of Giniger (U.S. Patent No. 6,751,729). In this section of the Official Action, it is correctly recognized that Akhtar fails to teach or suggest providing an access gateway and ingress element which is adapted to recognize and redirect data based on the presence of multiple instances of point-to-point (PPP) frames being sent to and from the IP enabled devices. Thus, the Official Action relies upon Giniger to allegedly remedy these deficiencies of Akhtar. Specifically, on page 13 thereof, the Official Action indicates that Giniger allegedly teaches encrypting and transmitting PPP frames across a network simultaneously with an IP header, referring to column 1, lines 51-61. The Official Action also points to a relaying function described at column 11, lines 38-46 of Giniger.

However, Applicants respectfully submit that these disparate teachings of Giniger do not collectively teach or suggest the feature which is admitted to be missing from Akhtar. More specifically, the sections of Giniger et al. do not collectively teach or suggest adapting an access gateway and ingress element to recognize and redirect data based on the presence of multiple instances of PPP frames as claimed, among other features, in Applicants' claim 20 combination. Looking at the cited portions of Giniger, in column 1, lines 51-61, the background section of Giniger simply describes a datalink layer security protocol known as L2TP which encapsulates PPP frames and transmits them by prepending an IP header thereto. At column 11, lines 38-46, there is a description of a relay agent 350 which accepts BOOTP IP packets and sends IP packets containing information in the accepted broadcast packets. This latter mechanism is used, according to Giniger, to permit a computer to obtain configuration

information, such as its IP address and host name, even though such a packet would not normally have been routed to that computer. Note that there is no reference in column 11, lines 38-46 of Giniger, to any recognition of multiple instances of PPP frames. Moreover, there is no mention of redirection of data based on the presence of multiple instances of PPP frames. The mere recitation in the background section that LT2P encapsulation includes multiple PPP frames, without any connection to redirection or recognition based on multiple instances thereof, is clearly insufficient for one of ordinary skill in the art to have been motivated to modify Akhtar to include the admittedly missing feature thereof.

Accordingly, reconsideration and withdrawal of the rejection of claims 20-21 and 25 under 35 U.S.C. § 103 over Akhtar in view of Giniger are respectfully requested.

All of the objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and a notice to that effect is earnestly solicited. Should the Examiner have any questions regarding this response or the application in general, she is urged to contact the undersigned at (540) 361-1863.

Respectfully submitted,

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Date: December 5, 2005

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